

AUTHORIZING THE RETURN TO PRIVATE OWNERSHIP OF GREAT LAKES VESSELS AND VESSELS OF 1,000 GROSS TONS OR LESS

DECEMBER 17 (legislative day, DECEMBER 15), 1943.—Ordered to be printed

Mr. RADCLIFFE, from the Committee on Commerce, submitted the following

REPORT

[To accompany H. R. 3261]

The Committee on Commerce, to whom was referred the bill (H. R. 3261) to amend the act of April 29, 1943, to authorize the return to private ownership of Great Lakes vessels and vessels of 1,000 gross tons or less, and for other purposes, having considered the same, report thereon with amendments and recommend that the bill as amended do pass.

The amendments are indicated in the bill as reported, and are as follows:

Page 3, line 1, strike out the word "compensate" and insert the words "pay just compensation to".

Page 3, lines 4, 5, and 6, strike out the period in line 4 and all of the sentence beginning in line 4 and ending in line 6, and insert in lieu thereof a colon and the following:

Provided, That the amount of just compensation may be agreed upon between the parties and upon failure to agree shall be arbitrated; in such arbitration one arbitrator to be appointed by the Administrator, War Shipping Administration, one by owner, and if these two arbitrators cannot agree within a reasonable time they shall select a third arbitrator and the decision of the majority of these three arbitrators shall be final.

EXPLANATION OF AMENDMENTS

The first amendment would require that the owner receive just compensation for the use of his vessel during the time the Government has had possession of it so as to insure that the owner whose vessel is returned receive the same compensation for its use as other owners receive when their vessels are taken for use by the Government.

Under the second amendment, if the owner and the Administrator cannot agree as to the amount of just compensation for the use of the

vessel, a procedure is set up whereby the matter may be settled by arbitration.

GENERAL STATEMENT

House bill 3261 would, by amending the act of April 29, 1943, also authorize the return to private ownership of vessels of 1,000 gross tons or less, and Great Lakes vessels, which can be spared without detriment to the department or agency having possession thereof.

In the course of the present emergency, the United States has acquired the ownership of large numbers of such craft. Craft especially designed for the work in which these vessels have been engaged are being produced in increasing volume. Therefore it is anticipated that a substantial number of these vessels can be released without interfering with the war effort.

Section 1 contains broad authority for the return to private ownership of fishing vessels, Great Lakes vessels, and vessels of 1,000 gross tons or less. The authority does not apply to vessels traded in under section 510 of the Merchant Marine Act, 1936, or any other provision of law, so that over-age vessels traded in to the Government for new ships will be frozen in Government possession and not compete with new and high-cost vessels acquired from the Government.

Section 2 authorizes any department or agency having possession of any vessel within the purview of section 1, which it deems can be spared without detriment to the service, to make it available to the War Shipping Administrator, who would undertake to return the vessel to private ownership in the manner specified by the measure.

The Administrator would notify the former owner that the vessel was available for return, under conditions wherein the owner would return any compensation received by him for the vessel, less allowance for reconditioning the vessel less an amount representing just compensation for its use by the Government.

Section 3 of the bill provides for sale upon competitive bids of vessels when the owner from whom it was acquired fails to make arrangements or waives the right to have the vessel returned to him. Such sale is to be made upon such terms and conditions as the Administrator may prescribe.

Section 4 of the bill directs that funds received for the sale of any vessel shall go to the department which made the vessel available for sale, subject to a deduction therefrom to cover the expenses incurred by the Administrator in effecting such return or sale.

Further details of the measure are set out in the report of the Merchant Marine and Fisheries Committee of the House on the bill, which is appended hereto. The Bureau of the Budget has advised that it has no objection to the measure.

[H. Rept. No. 802, 78th Cong., 1st sess.]

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The act of April 29, 1943 (Public Law 44, 78th Cong.) established a procedure under which fishing vessels and similar craft acquired by the United States might be returned to private ownership.

H. R. 3261 would, by amending that act, also authorize the return to private ownership of vessels of 1,000 gross tons or less, and Great Lakes vessels which can be spared without detriment to the department or agency having possession thereof.

In the course of the present emergency, the United States has acquired the ownership of large numbers of such craft. Title to the vessels was acquired by purchase in many instances while others were requisitioned for title by the Maritime Commission and the War Shipping Administration. Craft especially designed for the work in which these vessels have been engaged are being produced in increasing volume. Therefore it is anticipated that a substantial number of these vessels can be released without interfering with the war effort.

The bill relates only to vessels owned by the United States; that is, vessels, the title of which has been and may hereafter be acquired by the United States through purchase or requisition. Vessels chartered to the Government either voluntarily or by means of requisition for use will go back to their owners under the terms of the charters.

The act of April 29, 1943 (Public Law 44, 78th Cong.), established an orderly procedure whereby fishing vessels could be returned to the owner from whom such vessels were taken, and if he did not want it, to authorize the sale of the vessels to someone else. The same procedure under the terms of H. R. 3261 would be provided for the return of vessels of 1,000 gross tons or less, and Great Lakes vessels.

Section 1 contains the broad authority for the return to private ownership of fishing vessels, Great Lakes vessels, and vessels of 1,000 gross tons or less. There is a provision, however, excluding from the scope of the authority vessels traded in under section 510 of the Merchant Marine Act of 1936, or any other provision of law. This provision is intended to make certain that over-age vessels which are traded in to the Government for new ships will remain frozen in Government possession and will not be released for commercial operation to compete with high-cost vessels acquired from the Government. A specific case in point is furnished by the over-age ore carriers traded in in exchange for new ore carriers under arrangements approved by the Comptroller General in his opinion of February 17, 1943. By references to other provisions of law it is intended to refer to Public, 101, Seventy-seventh Congress, and section 902 of the Merchant Marine Act of 1936, under which it would be possible to acquire old vessels on arrangements and terms comparable to those permitted under trading in a vessel under section 510. Such over-age vessels also should be frozen in the Government pool.

Under the terms of section 2 each department or agency having possession of any such vessel, which it deems can be spared without detriment to its service, would be directed to make it available to the Administrator, War Shipping Administration, who would undertake to return the vessel to private ownership in the manner hereinafter specified.

The Administrator would first notify the owner from whom the vessel was purchased or requisitioned that the vessel was available for return and that it would be returned to him if he wanted it, under conditions wherein the owner would have to return the purchase price or compensation received by him for the vessel, less allowance for reconditioning the vessel and for its use by the United States. The Administrator after consultation with the owner would determine the amount necessary to restore the vessel "to condition and utility at least as good as when acquired by the United States."

Some of these vessels have had alterations made on them. Such alterations may or may not affect the usefulness of the vessel in its former occupation. The problem therefore is not to restore the vessel to a condition at least as good as when acquired by the Government, necessarily, but to make it suitable for the use to which it is to be returned. The allowance for reconditioning, it is contemplated, will enable the owner to place the vessel in as good a condition as when it was taken for practical purposes, wear and tear excepted. It is recognized that in some instances, due to extensive changes made, the cost of reconditioning will be high, and may possibly approximate the acquisition cost of the vessel. However, in the interest of the national economy, and the resumption of peacetime commercial operations, particularly in the case of fishing vessels, it appears highly desirable that the owner of the vessel be granted allowance for reconditioning the vessel sufficient to insure the vessel's return to its former occupation. The term "ordinary wear and tear" refers to peacetime standards of ordinary wear and tear.

Your committee recognizes that at some later date consideration will have to be given to the question of the return to former owners of other types of vessels. It further recognizes that conditions governing the return of vessels vary with respect to the many types of vessels which are employed by the Government during the present war. The committee in drafting the amendments to section 2 of this measure considered that it was highly desirable that the former owners of the vessels covered by this measure, particularly in the case of the fishing vessels,

should be assured of allowances sufficient to enable them to restore their vessels to condition and utility enabling their reemployment in the fishing industry. It is well recognized that the national welfare is dependent in no small way upon an adequate supply of the products which these vessels produce. This bill is designed to assure the reemployment of these vessels in their former trades where they may contribute to the war effort.

A further allowance would be made to the owner to compensate him for the use of the vessel during the time he was deprived of it by the United States. This provision is intended to place the owner whose vessel was taken for title on a parity with the owners whose vessels were chartered. Although such owner may have had the use of the money paid him for his vessel he has been deprived of the use of the vessel which would probably have been considerably more productive in his hands than the monetary consideration paid for it. Moreover, many such owners have not yet received the money for their vessels and others experienced delay in receiving it. Such owners are fully entitled to compensation for the use of their vessels.

The concluding sentence of section 2 provides that the determination of allowances (for reconditioning and of compensation for use) by the Administrator shall be final notwithstanding any other provision of law. This provision making final and conclusive such determinations by the Administrator assures that once a vessel is placed in the hands of the Administrator for return to private ownership it can be restored in the most expeditious manner to its former owner.

The provision in section 2 that the vessel may be returned to the owner "upon compliance with such other terms and conditions as the Administrator may prescribe" is intended to provide the Administrator with sufficient latitude, including the setting of minimum acceptable prices, and to take care of necessary details attendant upon the return including the physical return of the vessel to the locality from which it was taken if that should be necessary. This is comparable with the authority he would possess in any event under section 207 of the Merchant Marine Act, 1936.

Section 3 of the bill authorizes the vessel to be returned to private ownership by sale upon competitive bids if the owner from whom the vessel was acquired fails to make arrangement or waives the right to have the vessel returned to him. Such a sale would be authorized only after the owner has been paid for the vessel or has had a tender of payment made to him. The Administrator would be directed to specify in the notice which he would send to the owner that arrangements should be made by the owner within a designated limit of time. If the owner ignored the notice, the Administrator would be free to dispose of the vessel. When it develops that the vessel is not to be returned to the owner from whom it was acquired, the Administrator may advertise the vessel for sale upon competitive bids subject to such terms and conditions as he may prescribe. Such terms and conditions may, in the case of a vessel used in the commercial fisheries or industries related thereto immediately prior to its acquisition, include a requirement that it will not be used for a period of 2 years from the date of its purchase other than in the commercial fisheries or industries related thereto. Its purpose is to make it possible for the Administrator to give the fisheries access to the vessel without competition, with other uses for such small craft. It is recognized, of course, that fishing is a seasonal occupation and that the requirement herein described would not preclude off-season employment to the vessel by the purchaser in any occupation.

The proviso at the end of section 3 authorizes the Administrator to reject any bid which does not equal the purchase price or compensation paid or payable by the United States for the vessel less a reasonable allowance to cover the cost of reconditioning as above defined. This provision is permissive and not mandatory. It is intended to provide the Administrator with the means of protecting the interests of the Government if such protection should be necessary and is not intended to require that the vessel be sold at such a price if, in the opinion of the Administrator, it possesses a higher value.

The authority, covering the sale of Government-owned vessels, granted by this section would of course be in addition to that now provided in existing law by the Shipping Act, 1916, as amended, and the Merchant Marine Act, 1936, as amended.

The concluding section of the bill directs that funds received for the return or sale of any such vessel shall go to the department or agency by which the vessel was made available subject to a deduction therefrom to cover the expenses incurred by the Administrator in effecting such return or sale.

The proposed legislation was referred to the War Shipping Administration and to the Department of the Interior, and for the information of the Members of the House the reports from these two Departments are appended below.

WAR SHIPPING ADMINISTRATION,
Washington, October 9, 1943.

Hon. S. O. BLAND,
*Chairman, Committee on the Merchant Marine and Fisheries,
House of Representatives.*

DEAR JUDGE BLAND: Under date of September 22, 1943, you requested the views of the War Shipping Administration with respect to H. R. 3261, a bill to amend the act of April 29, 1943, to authorize the return to private ownership of Great Lakes vessels and vessels of 1,000 gross tons or less, and for other purposes.

The act of April 29, 1943 (Public Law 44, 78th Cong.), established a procedure under which fishing vessels and similar craft acquired by the United States might be returned to private ownership.

H. R. 3261 would, by amending the said act, authorize the return to private ownership of vessels of 1,000 gross tons or less, and Great Lakes vessels, which can be spared without detriment to the department or agency having possession thereof.

In the course of the present emergency the United States has acquired the ownership of large numbers of such craft. Title to the vessels was acquired by purchase, in many instances, while others were requisitioned for title by the Maritime Commission or the War Shipping Administration. Craft especially designed for the work in which these vessels have been engaged are being produced in increasing volume, wherefore it is anticipated that a substantial number of these vessels can be released without interfering with the war effort.

The bill by amending section 1 of said act of April 29, 1943, in order to extend its coverage to Great Lakes vessels and vessels of 1,000 gross tons or less, would not disturb the existing authority as to return of fishing vessels. The bill further amends sections 2 and 3 of that act in order to adapt the procedure and conditions of the return to the enlarged classes of vessels.

Section 2 of the act of April 29, 1943, which sets forth the conditions under which the vessels are to be returned and insures that the owner shall have first call upon it, would be amended by changing clause (1) thereof to read:

"(1) To cover the cost of such reconditioning as would be necessary to restore the vessel to a condition at least as good as when acquired by the United States (ordinary wear and tear excepted)."

Clause (1) now reads as follows:

"(1) To cover the cost of such reconditioning as the Administrator and the owner may find necessary to make the vessel suitable for use in the fisheries or industries related thereto * * * (ordinary wear and tear excepted)."

The new language appears to be more in keeping with usual provisions covering the conditions in which property is to be returned after its use by persons other than the owner. The exception for ordinary wear and tear, which is used with its commercial meaning as in peacetime, is retained.

Section 3 of the act of April 29, 1943, would be amended by deleting therefrom the provision which reads: "including a requirement of assurance that the vessel will not be used, for the period of 1 year from the date of sale, other than in the fisheries or industries related thereto, without the approval of the Administrator." This change would conform to the extension of section 1 to other than fishing vessels. The Administrator further understands that the authority to make sales subject to such terms and conditions as he prescribes would allow such a condition to be imposed if it would be in the interest of the United States.

The Administration recommends the enactment of the measure.

In view of the fact that hearings on this bill are scheduled for October 12, 1943, this report is being submitted to you without awaiting clearance by the Bureau of the Budget; therefore, nothing herein should be construed as an indication of the relation of the proposed legislation to the program of the President.

Sincerely yours,

E. S. LAND, *Administrator.*

DEPARTMENT OF THE INTERIOR,
Washington, D. C., October 11, 1943.

Hon. SCHUYLER OTIS BLAND,
*Chairman, Committee on the Merchant Marine and Fisheries,
House of Representatives.*

MY DEAR MR. BLAND: In a letter dated September 23, 1943, you requested the views of this Department with respect to H. R. 3261, a bill "to amend the act of April 29, 1943, to authorize the return to private ownership of Great Lakes vessels and vessels of one thousand gross tons or less, and for other purposes."

The act of April 29, 1943 (Public, No. 44, 78th Cong., 1st sess.), authorized the return to private ownership of certain vessels, formerly used or suitable for use in the fisheries or industries related thereto, and specified the conditions upon which a return would be made. H. R. 3261 would amend this act to make it applicable to certain other classes of vessels and would modify some of its provisions to accord with this amendment. This Department is not concerned with the extension of the act to other than fishing vessels and has no objection to the modification of the present provisions of the act insofar as it would affect fishing vessels.

Because of the lack of time, this report has not been submitted to the Bureau of the Budget, and therefore, I have not been advised by that Bureau as to the relationship of the proposed legislation to the program of the President.

Sincerely yours,

HAROLD L. ICKES,
Secretary of the Interior.

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